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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,155	02/07/2002	Boaz Jaschek	68393-3-20	8588
50670	7590	09/05/2006		EXAMINER
DAVIS WRIGHT TREMAINE LLP 865 FIGUEROA STREET SUITE 2400 LOS ANGELES, CA 90017-2566			ROBINSON, GRETA LEE	
			ART UNIT	PAPER NUMBER
			2168	

DATE MAILED: 09/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/071,155	JASCHEK ET AL.	
	Examiner Greta L. Robinson	Art Unit 2168	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 28 June 2006.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-101 is/are pending in the application.  
 4a) Of the above claim(s) 1-51,99 and 100 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 52-98 and 101 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 21 February 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.  	6) <input type="checkbox"/> Other: _____.

### **DETAILED ACTION**

1. Claims 1-101 are pending in the present application. Claims 1-51, 99 and 100 have been withdrawn.

#### ***Election/Restrictions***

2. Applicant's election of Invention II claims 52-98 and 101 in the reply filed on June 28, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

#### ***Drawings***

3. The drawings were received on February 21, 2006. These drawings are acceptable.

#### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 52-98 and 101 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The language of independent claims 52, 77 and 101 are directed to an abstract idea and do not present a concrete tangible result. The language of the claims are directed to non-functional descriptive

material which is non-statutory and simply recite an arrangement of data as opposed to a realized function. Claims 53-76 and 78-98 are rejected based on dependency.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 63 and 78-85 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 63 the limitation "wherein information streams include text, audio, video, multimedia, and executable code streaming media" lacks proper antecedent basis.

Regarding claim 78, the limitation "the group of modules" lacks proper antecedent basis. Claims 79-85 are rejected based on dependency.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 52-55 and 77 are rejected under 35 U.S.C. 102(e) as being anticipated by Abe et al. US Patent 7,089,227 B2.

Regarding claim 52, **Abe et al.** teaches a relevancy determination unit [note: Figure 1] comprising:

a first interface receiving information relating to a reception of keywords [note: RECEPTION UNIT (42) Figure 1];  
a processor for calculating current reception patterns and previous reception patterns in response to the reception of information relating to the reception of keywords [note: Information Processing Device Figure 13; RETREIVING PROCESS (44) Figure 1; and col. 5 lines 40-52];

a storage unit, coupled to the first interface and processor, for storing current reception patterns, previous reception patterns and information relating to the reception of keywords [note: buffer (43) Figure 1; and col. 5 lines 33-39 "buffer unit 43 stores the retrieval condition and the terminal device information received by the retrieval condition reception unit"].

10. Regarding claims 53-55, "wherein the processor is operable to determine a relevancy" [note: col. 15 lines 45-55]; "at least one keyword is extracted" [note: col. 12 lines 45-59]; "wherein the first interface is coupled to a search engine for receiving

terms extracted from a client query" [note: Figure 1; col. 16 line43 through col. 17 line 18 ].

11. The limitations of claim 77 have been addressed in claim 52 except for the following: "a search engine for receiving and processing information streams" [note: col. 15 line 45 through col. 16 line 16; also note Figure 1].

### ***Response to Arguments***

12. Applicant's arguments filed June 28, 2006 and February 21, 2006 have been fully considered but they are not persuasive.

In the response filed June 28, 2006 Applicant did not *specifically* point out the error in the restriction and did not state that it was a traversal. Applicant simply argued that non-elected independent claims 1 and 31 were amended to include the limitation of elected claim 52, and that claim 52 was allowable and therefore Invention I should be rejoined. This argument is not found persuasive for the following reasons: (1) The claims are still different in scope. Note claim 52 is claiming a relevancy determination unit or data structure, whereas the non-elected *amended* claims (i.e. claims 1 and 31) are determining relevancy of real time received terms by implementing an update and comparison procedure. (2) Claim 52 is not allowable and has been rejected under 35 USC 101, please note rejection supra. (3) Also elected independent claims 77 and 101, were not addressed in the response and are also different in scope than the amended

*non-elected* claims. Amended non-elected claims do not include the limitation of a search engine to process a query.

Applicant's amendment filed February 21, 2006 overcomes the rejections cited in the previous Office Action mailed August 17, 2005; however a new rejection has been cited.

13. Applicant's arguments with respect to claims 52-98 and 101 have been considered but are moot in view of the new ground(s) of rejection.

In the response Applicant stated support for the limitations rejected within the disclosure and amended claims.

### ***Conclusion***

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

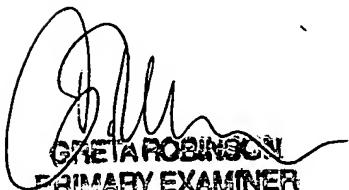
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greta L. Robinson whose telephone number is (571)272-4118. The examiner can normally be reached on M-F 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim T. Vo can be reached on (571)272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



GRETA ROBINSON  
PRIMARY EXAMINER

Greta Robinson  
Primary Examiner  
August 30, 2006